

Message

From: Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]
Sent: 1/29/2020 9:06:13 PM
To: Hurlid, Kathy [Hurlid.Kathy@epa.gov]; Kelly, Stephanie [kelly.stephanie@epa.gov]
CC: Saxena, Juhi [Saxena.Juhi@epa.gov]
Subject: RE: 404(g) rule workgroup call-in - materials for today
Attachments: ESA in 404(g) consultation Options selection - jrs comments 1-28-20 nb.docx

Hi Kathy and Stephanie,

Please find some comments on the paper focused on the consultation option for your consideration. Thought that it made sense to get you comments on this paper first; this document includes comments from Juhi. I'll send you any comments that we have on the other paper in the next few days or so.

Thanks & hope that they are helpful!
Nizanna

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From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Tuesday, January 28, 2020 10:58 AM
To: Saxena, Juhi <Saxena.Juhi@epa.gov>; Kelly, Stephanie <kelly.stephanie@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Subject: RE: 404(g) rule workgroup call-in - materials for today

So, don't have links. My knowledge of the documents is from briefings given to OW political leadership on the ESA Counterpart Reg. The attached briefing paper mentions two documents that OWM uses?

- 1) The February 2018 One Federal Decision Working Agreement between FHWA, EPA, USFWS, NMFS, and USCG.

- 2) The January 2001 National Memorandum of Agreement between the EPA, FWS and the NMFS Regarding Enhanced Coordination under the Clean Water Act and Endangered Species Act.

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I hope this helps.

- Kathy

From: Saxena, Juhi <Saxena.Juhi@epa.gov>
Sent: Tuesday, January 28, 2020 9:41 AM
To: Kelly, Stephanie <kelly.stephanie@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Cc: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: RE: 404(g) rule workgroup call-in - materials for today

What is the title of the guidance, or could you please send a link? Thanks

From: Kelly, Stephanie <kelly.stephanie@epa.gov>
Sent: Tuesday, January 28, 2020 9:27 AM
To: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Cc: Saxena, Juhi <Saxena.Juhi@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: RE: 404(g) rule workgroup call-in - materials for today

Good Morning Nizanna and Juhi,

Sorry for the delay. I wanted to get input from Kathy before responding back. We are both back in the office today. Anyway, the EPA guidance that was mentioned in the non-status quo refers to the EPA Guidance document on how to consult on rules or other actions, with the services.

Let me know if you have any further questions.

Sincerely,

Stephanie

From: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Sent: Thursday, January 23, 2020 3:14 PM
To: Kelly, Stephanie <kelly.stephanie@epa.gov>
Cc: Saxena, Juhi <Saxena.Juhi@epa.gov>
Subject: RE: 404(g) rule workgroup call-in - materials for today

Hi Stephanie,

I shared the options papers that you presented during today's workgroup call with my colleague, Juhi Saxena, one of the ESA experts in the NPDES program. After taking a quick look back through the papers, we have an initial question

Ex. 5 Deliberative Process (DP)

Thanks!

Nizanna

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From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Sent: Thursday, January 23, 2020 10:49 AM

To: Montgomerie, Robert <Montgomerie.Robert@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Burdick, Melanie <Burdick.Melanie@epa.gov>; Vallette, Yvonne <Vallette.Yvonne@epa.gov>; Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Grossarth, Shari <Grossarth.Shari@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Speir, Jeffrey <speir.jeffrey@epa.gov>; Morgan, James <Morgan.James@epa.gov>; Lapp, Jeffrey <lapp.jeffrey@epa.gov>; Kelly, Stephanie <kelly.stephanie@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>
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All, sorry for sending these out so late but thank you to Stephanie Kelly for pulling together the rough first draft documents on ESA.

As you recall, the workgroup had reviewed a paper by Simma on ESA and our obligations (attached). Since that time, we've been instructed to revisit whether or not we have discretion under the CWA section 404(g) when approving a state/tribal program and if so, then we would consult on program approvals.

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I know you've not read these. Stephanie will walk through these at a high level today and we will look for your input via e-mail over the next two weeks.

Thanks, Kathy

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